



Minnesota Department of Human Services
Elmer L. Andersen Building
Commissioner Pamela Wheelock
Post Office Box 64998
St. Paul, Minnesota 55164-0998

August 8, 2019

Mr. Faron Jackson, Chairman
Leech Lake Band of Ojibwe
190 Sailstar Drive NW
Cass Lake, Minnesota 56633
Faron.Jackson@llojibwe.org

Re: Response to August 7, 2019 Correspondence

Dear Chairman Jackson:

Thank you for your August 7, 2019 letter. We value and appreciate our partnership with the Leech Lake Band of Ojibwe. I hope the following information clarifies some of the issues raised in your correspondence.

Regarding the first and second issues raised in your letter, DHS agrees that the Leech Lake Band of Ojibwe has not been provided with documentation detailing the overpaid amounts. As mentioned in our August 1, 2019 letter, DHS is compiling that information. An electronic copy will be e-mailed to you tomorrow, August 9th, and an encrypted flash drive with the same data will also be sent via certified mail. DHS would also like to set up a call with you, or whomever you delegate, to provide additional guidance and answer questions you may have about the data once you receive it. Please contact Vern LaPlante at Vernon.Laplante@state.mn.us or 651-431-2910, to schedule time to discuss this at your earliest convenience.

DHS also agrees that you do not yet have the information necessary to determine if an appeal is appropriate, or to draft an appeal request consistent with statutory requirements. DHS's position is that your 30-day deadline to appeal will start running when the claims level data and accompanying correspondence are mailed to the Band.

Finally, I appreciate your position that the overpayments were caused by improper guidance from DHS. I have asked the Office of the Legislative Auditor to review this very issue, so that we can have an independent understanding of what happened and what role DHS might have played. Unfortunately, regardless of whether the overpayment was caused by DHS error or not, DHS is required to recover overpaid federal funds. State law requires DHS to recover improperly paid federal funds from providers and does not make an exception for overpayments resulting from Department error. Minn. Stat. §§ 256B.064; 256B.0641. However, state law does provide flexibility for the Commissioner to enter into

Chairman Jackson

August 8, 2019

Page 2

an extended repayment plan if Department error was a factor. Federal law also does not condition a provider's duty to repay overpaid amounts on whether the overpayments were due to agency error. 42 U.S.C. 1320a-7k(d). Accordingly, I cannot withdraw the Notice of Overpayment.

I look forward to continuing to work through these issues with you in an attempt to reach the best possible outcome. Please do not hesitate to contact me if you have additional questions or concerns.

Sincerely,

A handwritten signature in dark ink, reading "Pamela Wheelock". The signature is written in a cursive, flowing style.

Pamela Wheelock

Commissioner

Cc: Leonard Fineday (Leonard.Fineday@llojibwe.org)

Vern LaPlante